

REMARKS

The Examiner has rejected claims 1 – 26 under 35 USC §102 (b, e, e) as anticipated by Everhart (US patent 5,922,550), Everhart (US patent 6,221,579) or WO 01/44813, respectively. The Examiner states that the references:

-- all teach the same pertinent details. Specifically, the references teach a substrate, a binder/reagent/pattern on the surface that is a guide to direct sample to the appropriate spot. --

Applicants respectfully disagree. As discussed in the specification at page 3, lines 22 – 32 and page 12, lines 3 – 35, prior to Applicants' invention there remained a need in the art for devices and methods that included a means for directing a sample to a test surface of a diagnostic device. The cited references, though superficially somewhat similar to Applicants' invention, do not provide a guide means. WO 01/44813, for example, has a:

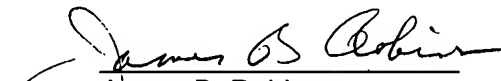
-- patterned analyte-specific receptor layer to allow for the controlled attachment placement of the analyte receptor. The term "patterned analyte-specific receptor layers thereon" as used herein means the analyte-specific receptor layers in any pattern on the polymer or metalized polymer films.-- (page 18, lines 7 – 12)

Thus the "pattern" is clearly not a guide to move a sample to a surface as defined in Applicants' claims. The cited US patents likewise contain no guide means.

Since the cited references do not contain an element of the invention as defined by the claims, the invention is not anticipated by the cited references.


Applicants request that the Examiner reconsider and withdraw the rejection of the claims in light of the preceding remarks. Should the Examiner have any issues he would like to discuss in order to facilitate the progression of this application, he is encouraged to call the undersigned at (770)-587-7273.

Respectfully submitted,


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I, James B. Robinson, hereby certify that on September 9, 2004, this document is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Commissioner of Patents P.O. Box 1450, Alexandria VA 22313-1450.


James B. Robinson
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